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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

ISAAC E. CALDIERO)	Case No.:
)	Dept. No.
Plaintiff)	
)	
vs.)	COMPLAINT AND DEMAND FOR JURY
)	TRIAL
MILLCREEK ENTERPRISES, LLC)	
d/b/a THE UPS STORE #3522)	
)	
Defendant)	
)	
)	
)	
)	

Plaintiff Isaac Caldiero, by and through the above counsel of record and hereby complains against Defendant Millcreek Enterprises, LLC d/b/a The UPS Store #3522 as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a resident of Washington County, Utah.
2. Defendant Millcreek Enterprises, LLC d/b/a The UPS Store #3522 is a Utah Limited Liability Company.
3. This court has jurisdiction over this action and venue is proper in this forum because the acts which form the basis of this Complaint occurred in the State of Utah, Plaintiff and

Defendant are residents of the State of Utah, and this Court has subject matter jurisdiction over this copyright infringement action pursuant to 17 U.S.C. §101 *et seq.*, and 28 U.S.C. §1331.

II. STATEMENT OF FACTS

4. Plaintiff is a well-known professional rock climber and was the first winner of the show “American Ninja Warrior” in 2015.

5. Plaintiff has climbed in an area known as “Joe’s Valley” for twenty years.

6. Joe’s Valley is known among climbers for its multiple technical bouldering problems,¹ and rock climbers from around the world come to Joe’s Valley to challenge themselves on these problems.

7. Joe’s Valley has been Plaintiff’s primary climbing area for twenty years and Plaintiff has made the “first ascent” of many of Joe’s Valley’s most well-known and difficult bouldering problems.

8. In 2011, after years of field research and effort, Plaintiff self-published and began sales of an original creative work known as “An Insightful Guide to Joe’s Valley Bouldering (the “Guidebook”).”

9. The Guidebook provided a previously unavailable resource to local and visiting climbers for the locations, access routes to, descriptions, and in some cases, the “beta” of hundreds of bouldering problems located in Joe’s Valley.

10. Prior to the Guidebook’s publication, there was no comprehensive, up-to-date guide to Joe’s Valley for visiting climbers.

11. The Guidebook was sold all over the world, and these sales were Plaintiff’s main source of income for approximately four years.

¹ By way of background, a bouldering “problem” differs from a traditional climbing route in that these “problems” are located on large boulders, generally shorter than route climbing, and are completed through a series of technical moves without ropes. The climber’s only protection is a “crash pad” made of foam covered in fabric, and potentially a “spotter” who guides a falling climber onto the crash pad in the event of an awkward fall.

12. Plaintiff registered the guidebook with the United States Copyright Office, receiving Registration Number TXu001741692 on March 3, 2011.

13. Earlier this year, climbers began telling Plaintiff they had seen printed copies of the Guidebook which were not in the original format, but appeared to be new photocopies of the Guidebook.

14. After looking into the matter further, Plaintiff discovered that Defendant (which is located close to an indoor climbing gym and offers professional printing services) had copied the Guidebook to a PDF file and was printing and selling copies of it when customers requested it.

15. Defendant's managers and employees are aware of the scheme to print and sell copies of the Guidebook, are aware of the unauthorized nature of these copies, and because of the demand, inform customers that it will take two or more days to fill an order for the pirated copy of the Guidebook.

FIRST CAUSE OF ACTION

COPYRIGHT INFRINGEMENT, 17 U.S.C. §501

16. Plaintiff repeats and realleges paragraphs 1 – 15 of this Complaint as though fully stated herein.

17. Plaintiff is the legal owner of the Copyright to the Guidebook and all exclusive rights of a copyright owner, including but not limited to those provided by 17 U.S.C. §106 - 122.

18. Under 17 U.S.C. §106, these rights include the exclusive right “to reproduce the copyrighted work” and “to distribute copies . . . of the copyrighted work to the public for sale or other transfer of ownership . . .”

19. Defendant has infringed Plaintiff's copyright in the Guidebook by, among other things, reproducing and selling copies of the Guidebook without Plaintiff's permission, without a license from Plaintiff to reproduce and sell the Guidebook, and without compensating Plaintiff for the unauthorized copies.

20. Defendant's infringement was knowing and willful, as Defendant created a PDF file of the Guidebook for the express purpose of selling unauthorized copies of the Guidebook.

21. As a result of Defendant's infringement, Plaintiff is entitled to an injunction, his actual damages, all of Defendant's profits, or at Plaintiff's election, statutory damages for Defendant's willful infringement as provided for in 17 U.S.C. §504.

22. In addition, Plaintiff is entitled to his costs and attorney's fees as provided in 17 U.S.C. §505.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment in Plaintiff's favor and against Defendant in an amount to be determined at trial;
2. An injunction preventing further infringement of Plaintiff's copyright;
3. An award of Plaintiff's costs of suit pursuant to 17 U.S.C. §505;
4. An award of attorney's fees pursuant to 17 U.S.C. §505; and
5. Any further relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury in this action of all issues so triable.

DATED this 31st day of October, 2017.

LOWE LAW GROUP

/s/ Zachary Peter Lowe

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